REMARKS/ARGUMENTS

The rejections presented in the Office Action dated January 29, 2010 (hereinafter Office Action) have been considered. Claims 1, 3-8, 10, 12-17, 19, 21-26, 28, 30-35 and 37 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1, 3-8, 10, 12-17, 19, 21-26, 28, 30-35 and 37 are rejected based on 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2003/0100295 by Sakai et al. (hereinafter "*Sakai*") and in view of U.S. Patent No. 6,516,202 to Hawkins et al. (hereinafter "*Hawkins*") and further in view of WO 01/28192 to Sharp (hereinafter "*Sharp*"). The Applicant traverses the rejection.

In addition to maintaining arguments previously presented, the Applicant respectfully disagrees with characterizations of what the cited prior art teaches or suggests. Where the Examiner's characterization of the prior art is inaccurate, a *prima facie* case of obviousness cannot be maintained.

For example, the characterizations of *Hawkins* are first considered. Referring first to Claim 1, this claim includes a control unit configured to constitute a collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and messages, which both refer to the same caller, into a single contact attempt related to the caller, wherein content of the text message is descriptive of a reason for the unanswered call data. The Examiner acknowledges that *Sakai* at least fails to teach combining together unanswered call data and messages which both refer to the same caller, into a single contact attempt related to the caller.

Hawkins is cited as teaching contact attempts that include both received unanswered call data (citing a telephone number and time of the missed call), and at least one saved message (citing a saved voicemail associated with that same missed call). The Examiner then cites *Hawkins*, particularly at column 7, lines 31-33, alleging that "Hawkins further teaches the 'message' could either be a voicemail message or text/e-mail message." The Applicant disagrees that *Hawkins* teaches, suggests, or otherwise contemplates the use of text messaging as set forth in the claim, for at least the reasons set forth below.

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The cited portion of *Hawkins* reads as follows:

> At the top of the speed dialing screen 810, and every other base screen for one embodiment, are indicators. There is a time indicator, a message indicator, a signal strength indicator, and a battery strength indicator. **For one embodiment, there are two message indicators, indicating either a voicemail message or a text/e-mail message**. For one embodiment, the message indicator may further include service provider information as well. (emphasis added)

As argued in prior responses by the Applicant, *Hawkins'* reference to a text message only suggests that an indicator may be provided when the user device has **received a text message**. The Examiner argues that "Hawkins further teaches *the* 'message' could either be a voicemail message or text/e-mail message." This is clearly not what *Hawkins* teaches or suggests. "**The**" message referred to by the Examiner when attempting to read *Hawkins* on Claim 1 is "**the**" voicemail message shown in FIG. 8B, item 886 of *Hawkins*. However, the passage from *Hawkins* cited by the Examiner (and reproduced above) merely indicates that the *Hawkins* device will show an indicator when the user has received a voicemail, text or e-mail message. Nothing in the passage reproduced above, nor anywhere else in *Hawkins*, does *Hawkins* describe or otherwise contemplate Claim 1's collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and messages. The fact that *Hawkins* merely describes an indicator when a text message is received is irrelevant to what the claim states. There is nothing in *Sakai*, *Hawkins* or *Sharp*, whether considered individually or collectively, that teaches or suggests combining unanswered call data with a text message(s).

From the teachings of *Hawkins*, it is not foreseeable that one would merely "replace" *Hawkins'* voicemail indication (*e.g.*, item 886 of FIG. 8B) with a text message that relates to a different call. Not only is *Hawkins* silent in this regard, what *Hawkins* describes is a voicemail message resulting from the very same call that identifies the caller. For example, item 886 of *Hawkins'* FIG. 8B reads as follows:

> Ron Marianetti
> 650-555-12112
> 11:35 am Yesterday

What this clearly suggests is that a voicemail, resulting from a call at "11:35 am **Yesterday**" is available. However, in Claim 1 of the Applicant's application, the collection of both received unanswered call data and at least one saved text message are different occurrences – *i.e.* the text message(s) is not a result of the received unanswered call data, as the voicemail is in the *Hawkins* reference. Thus, it is not possible to simply replace *Hawkins'* voice message with a text message as *Hawkins* does not describe (or even consider) how one would combine unanswered call data with a text message, as a text message does not by its very nature occur as a result of a missed "call."

For at least the reasons above, *Hawkins* does not describe what the Examiner purports that it describes, which evidences a lack of *prima facie* obviousness. The Applicant respectfully requests reconsideration of the application of *Hawkins* to Claim 1 in this manner, and ultimate withdrawal of the rejection. Further, nothing in *Sakai* nor *Sharp* teach or suggest at least the combination of unanswered call data and text messages as is set forth in Claim 1. Because none of *Sakai*, *Hawkins* nor *Sharp* teach or suggest such claimed features, a combination of such references fails to teach or suggest these claimed features.

The Examiner further acknowledges that *Sakai* in view of *Hawkins* fails to describe where content of the text message is descriptive of a reason for the unanswered call data and to present the contact attempt together with content of the text message to indicate the reason for the unanswered call data. *Sharp* is cited as describing these claimed recitations. The Applicant respectfully disagrees.

While *Sharp* may describe presenting the content of a text message, the claimed feature of Claim 1 indicates that the user interface presents "the contact attempt **together with** the content of the text message to indicate the reason for the unanswered call data." The contact attempt referred to in Claim 1 is the unanswered call data. *Sharp* does not appear to associate any **unanswered call** data together with the context of the text message. The Examiner argues that selecting the message in *Sharp* within the Inbox displays the contents of the message "to indicate a reason for the contact attempt." However, if this is the case, then *Sharp*'s indication of a reason for the contact attempt relates to the message itself, and **not to any unanswered call**.

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It is respectfully submitted that portions of the cited prior art are being pieced together in an attempt to arrive at the claimed invention, where the Examiner is giving different meaning to the same claim features. By indicating that *Sharp*'s text message provides a reason for sending the text message itself, the rejection ignores the claim language that indicates that the single contact attempt (that the claim indicates includes the combined unanswered call data and message) is presented with the content of the text message. As was the case in *Hawkins*, *Sharp* simply does not teach or suggest any relationship between unanswered **call** data and a text message that indicates a reason for the unanswered **call**.

For at least these additional reasons, *Sharp* does not remedy the deficiencies of *Hawkins* and *Sakai*. It is respectfully submitted that *Sharp* does not describe what the Examiner purports that it describes, which establishes a lack of *prima facie* obviousness. The Applicant respectfully requests reconsideration of the application of *Sharp* to Claim 1 in this manner, and ultimate withdrawal of the rejection. Further, nothing in *Sakai* nor *Hawkins* teach or suggest at least the user interface that presents the contact attempt together with the content of the text message to indicate the reason for the unanswered call as is set forth in Claim 1. Because none of *Sakai*, *Hawkins* nor *Sharp* teach or suggest such claimed features, a combination of such references fails to teach or suggest these claimed features.

Among other things, independent Claim 10 includes constituting means for constituting a collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and messages which both refer to the same caller, into a single contact attempt related to the caller, wherein content of the text message is descriptive of a reason for the calls, and presenting means for presenting the contact attempt together with the content of the text message to indicate the reason for the calls. For the reasons set forth above, the combination of *Sakai*, *Hawkins* and *Sharp* also fail to teach or suggest at least any means for constituting a collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and messages which both refer to the same caller, into a single contact attempt related to the caller. The combination also fails to teach or suggest that the content of the text message (that is part of the **collection of the unanswered call data and the text message**) is descriptive of a reason for the calls. Further, the combination does not teach or

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suggest presenting means for presenting the contact attempt (which is a single contact attempt related to the caller that has a combination of the unanswered call data and text message) together with the content of the text message to indicate the reason for the calls. Thus, for at least the reasons presented above in connection with Claim 1, the combination fails to establish *prima facie* obviousness. It should be noted that other limitations of Claim 10 may also not be taught or suggested by the combination that are not specifically identified herein; *e.g.,* the Applicant respectfully submits that the cited references do not teach or suggest the requisite structure for performing stated functions.

Similarly, independent Claim 19 includes, among other things, constituting a collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and messages which both refer to the same caller, into a single contact attempt related to the caller, wherein content of the text message is descriptive of a reason for the calls; and presenting the contact attempt together with the content of the text message to indicate the reason for the calls. For the reasons set forth above, the combination of *Sakai, Hawkins* and *Sharp* fail to teach or suggest at least these claimed features, and consequently *prima facie* obviousness is not established.

Independent Claim 28 includes, among other things, combining together both received unanswered call data and at least one saved text message which both refer to the same caller, into a single contact attempt related to the caller, wherein content of the text message is descriptive of a reason for the unanswered call data, and presenting the contact attempt with a user interface of the subscriber terminal together with the content of the text message to indicate the reason for the unanswered call data. As noted above, the combination of *Sakai, Hawkins* and *Sharp* at least fail to teach or suggest combining together both received unanswered call data and at least one saved text message which both refer to the same caller, into a single contact attempt related to the caller. The combination further fails to teach or suggest that the content of the text message (that is part of the **single contact attempt including the combined unanswered call data and the text message**) is descriptive of a reason for the unanswered call data. Additionally, the cited combination fails to teach or suggest presenting the contact attempt (which is a single contact attempt related to the caller that has a combination of the unanswered call data and text message) with a user interface of

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the subscriber terminal together with the content of the text message indicating the reason for the unanswered call data. For the reasons set forth above, the combination of *Sakai*, *Hawkins* and *Sharp* fail to teach or suggest at least these claimed features, and consequently *prima facie* obviousness is not established.

Dependent Claims 3-8, 12-17, 21-26, and 30-35, 37, which are dependent from independent Claims 1, 10, 19 and 28 respectively, were also rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Sakai*, *Hawkins* and *Sharp*. While Applicant does not acquiesce with any particular rejections to these dependent claims, including any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1, 10, 19 and 28. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." M.P.E.P. §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 3-8, 12-17, 21-26, 30-35 and 37 are also allowable over the combination of *Sakai*, *Hawkins* and *Sharp*.

Authorization is given to charge Deposit Account No. 50-3581 (OSN.009.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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